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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,844	08/31/2000	Allan Herrod	538B	4410
156	7590	09/08/2004	EXAMINER	
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C. 489 FIFTH AVENUE NEW YORK, NY 10017			FRECH, KARL D	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/651,844

Applicant(s)

HERROD ET AL.

Examiner

Karl D Frech

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-73 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 55-62 and 64-73 is/are rejected.
- 7) ☒ Claim(s) 63 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. The preliminary amendment filed 8/31/2000 has been entered. Claims 55-72 are now pending.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 55,57-60,64 are rejected under 35 U.S.C. 102(b) as being anticipated by Poland 4,825,058. Poland discloses a terminal including a bar code reader that optically reads a bar code (17) that includes instructions in a language understood by the reader (agent implementation language) of an executable program and a processor for interpreting the bar code (col 2 lines 43-65). The bar codes are held on a storage medium (15). There is disclosed a serial data port 18 in the terminal housing and a scanning wand 13 for sweeping across the scanning plane.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 56,61,62,65-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poland 4,825,058. Poland discloses that which is seen above. Poland does not disclose the computer network or the wireless communications with the

computer network. However, individual terminals being networked is old and well known, as is wireless communications between hand held terminals and the larger network. It would have been obvious to a person of ordinary skill in the art at the time of the invention to network a series of terminals of Poland. This would allow multiple users to accomplish their tasks simultaneously. Also, it would have been obvious to a person of ordinary skill in the art at the time of the invention to use wireless communications for this networking in order to free the user from a cumbersome hard-wired communication means. Poland does not disclose the field of view scanner as claimed. However, field of view scanners, such as raster scanners and imaging scanners are old and well known. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to replace the wand scanner of Poland with a field of view scanner. This would negate the inherent "timing" difficulties of scanning with a wand scanner. Poland does not disclose the two dimensional bar code as claimed. However, these two dimensional bar codes are also old and well known. It would have been obvious to a person of ordinary skill in the art at the time of the invention to replace the one dimensional bar code of Poland with a known two dimensional bar code as two dimensional bar codes are able to hold considerably more information allowing for a more detailed instruction to be scanned into the terminal.

6. Claim 63 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or fairly suggest displaying a network site created by the executed program in conjunction with all the other claimed limitations.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Frech whose telephone number is (571) 272-2390. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karl D Frech
Primary Examiner
Art Unit 2876
